

TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-SECOND LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE:

CONSIDERATION OF
SENATE BILL 14

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COMMITTEE OF THE WHOLE SENATE

Monday, January 24, 2011

BE IT REMEMBERED THAT AT 4:17 p.m., on Monday, the 24th day of January 2011, the above-entitled matter came on for hearing at the Texas State Capitol Senate Chamber, Austin, Texas, before the Committee of the Whole Senate; and the following proceedings were reported by Kim Pence, a Certified Shorthand Reporter:

Volume 1

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CONSIDERATION OF SENATE BILL 14 1/24/2011

<p style="text-align: right;">2</p> <p>1 PROCEEDINGS</p> <p>2 MONDAY, JANUARY 24, 2011</p> <p>3 (4:17 p.m.)</p> <p>4 PRESIDENT DEMHURST: I'm going to go ahead</p> <p>5 and move that pursuant to the resolution previously</p> <p>6 adopted, the Senate resolves itself into the Committee</p> <p>7 of the Whole for the consideration of Senate Bill 14.</p> <p>8 I'm going to ask that the Senator from</p> <p>9 Lubbock, Senator Duncan, please take the Chair for the</p> <p>10 duration of the proceedings in the Committee of the</p> <p>11 Whole. I know that Senator Duncan as well as I are</p> <p>12 sensitive to our Democrat colleagues, and I think</p> <p>13 there's a function that many of you want to go to. So I</p> <p>14 don't think this is going to last but a couple of</p> <p>15 minutes more. Okay.</p> <p>16 CHAIRMAN DUNCAN: The Committee of the</p> <p>17 Whole Senate will come to order. The secretary will</p> <p>18 call the roll.</p> <p>19 ROLL CALL</p> <p>20 SECRETARY SPAW: Birdwell?</p> <p>21 SEN. BIRDWELL: (Present)</p> <p>22 SECRETARY SPAW: Corona?</p> <p>23 SEN. CORONA: (Present)</p> <p>24 SECRETARY SPAW: Davis?</p> <p>25 SEN. DAVIS: (Present)</p>	<p style="text-align: right;">4</p> <p>1 SEN. LUCIO: (Present)</p> <p>2 SECRETARY SPAW: Nelson?</p> <p>3 SEN. NELSON: (Present)</p> <p>4 SECRETARY SPAW: Nichols?</p> <p>5 SEN. NICHOLS: (Present)</p> <p>6 SECRETARY SPAW: Ogden?</p> <p>7 SEN. OGDEN: (Present)</p> <p>8 SECRETARY SPAW: Patrick?</p> <p>9 SEN. PATRICK: (Present)</p> <p>10 SECRETARY SPAW: Rodriguez?</p> <p>11 SEN. RODRIGUEZ: (Present)</p> <p>12 SECRETARY SPAW: Seliger?</p> <p>13 SEN. SELIGER: (Present)</p> <p>14 SECRETARY SPAW: Shapiro?</p> <p>15 SEN. SHAPIRO: (Present)</p> <p>16 SECRETARY SPAW: Uresti?</p> <p>17 SEN. URESTI: (Present)</p> <p>18 SECRETARY SPAW: Van de Putte?</p> <p>19 SEN. VAN de PUTTE: (Present)</p> <p>20 SECRETARY SPAW: Watson?</p> <p>21 SEN. WATSON: (Present)</p> <p>22 SECRETARY SPAW: Wentworth?</p> <p>23 SEN. WENTWORTH: (Present)</p> <p>24 SECRETARY SPAW: West?</p> <p>25 SEN. WEST: (Present)</p>
<p style="text-align: right;">3</p> <p>1 SECRETARY SPAW: Deuell?</p> <p>2 SEN. DEUELL: (Present)</p> <p>3 SECRETARY SPAW: Duncan?</p> <p>4 CHAIRMAN DUNCAN: (Present)</p> <p>5 SECRETARY SPAW: Ellis?</p> <p>6 SEN. ELLIS: (Present)</p> <p>7 SECRETARY SPAW: Eltife?</p> <p>8 SEN. ELTIFE: (Present)</p> <p>9 SECRETARY SPAW: Estes?</p> <p>10 SEN. ESTES: (Present)</p> <p>11 SECRETARY SPAW: Fraser?</p> <p>12 SEN. FRASER: (Present)</p> <p>13 SECRETARY SPAW: Gallegos?</p> <p>14 SEN. GALLEGOS: (Present)</p> <p>15 SECRETARY SPAW: Harris?</p> <p>16 SEN. HARRIS: (Present)</p> <p>17 SECRETARY SPAW: Hegar?</p> <p>18 SEN. HEGAR: (Absent)</p> <p>19 SECRETARY SPAW: Hinojosa?</p> <p>20 SEN. HINOJOSA: (Present)</p> <p>21 SECRETARY SPAW: Huffman?</p> <p>22 SEN. HUFFMAN: (Present)</p> <p>23 SECRETARY SPAW: Jackson?</p> <p>24 SEN. JACKSON: (Present)</p> <p>25 SECRETARY SPAW: Lucio?</p>	<p style="text-align: right;">5</p> <p>1 SECRETARY SPAW: Whitmire?</p> <p>2 SEN. WHITMIRE: (Present)</p> <p>3 SECRETARY SPAW: Williams?</p> <p>4 SEN. WILLIAMS: (Present)</p> <p>5 SECRETARY SPAW: Zaffirini?</p> <p>6 SEN. ZAFFIRINI: (Present)</p> <p>7 SECRETARY SPAW: Mr. President?</p> <p>8 CHAIRMAN DUNCAN: (Present)</p> <p>9 The quorum is present.</p> <p>10 LAYING OUT OF SENATE BILL 14</p> <p>11 CHAIRMAN DUNCAN: The first order of</p> <p>12 business, the Chair will lay out Senate Bill 14 pursuant</p> <p>13 to Senate Resolution 79. So the Chair at this time lays</p> <p>14 out Senate Bill 14.</p> <p>15 The secretary, I don't think, needs to</p> <p>16 read the caption, but would you for the record?</p> <p>17 SECRETARY SPAW: Senate Bill 14 by Fraser,</p> <p>18 et al., relating to requirements to vote, including</p> <p>19 presenting proof of identification, providing criminal</p> <p>20 penalties.</p> <p>21 CHAIRMAN DUNCAN: Senator Fraser, I have a</p> <p>22 question of you. Do you have a committee substitute, or</p> <p>23 are you going to explain tomorrow morning the full bill?</p> <p>24 SEN. FRASER: There will not be a</p> <p>25 substitute. The bill that has been passed out and filed</p>

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<p>1 will be the bill before us.</p> <p>2 QUESTIONS FROM SENATE FLOOR</p> <p>3 CHAIRMAN DUNCAN: Thank you. Senator Van</p> <p>4 de Putte, for what purpose?</p> <p>5 SEN. VAN de PUTTE: An inquiry,</p> <p>6 Mr. President, of the Committee of the Whole. Don't</p> <p>7 know whether to refer to you now as Mr. President or</p> <p>8 Mr. Chairman of the Committee of the Whole --</p> <p>9 CHAIRMAN DUNCAN: I think it --</p> <p>10 SEN. VAN de PUTTE: -- and I wanted to ask</p> <p>11 the parliamentary what is proper?</p> <p>12 CHAIRMAN DUNCAN: Mr. Chairman.</p> <p>13 SEN. VAN de PUTTE: Mr. Chairman.</p> <p>14 Mr. Chairman, the inquiry is as we proceed tomorrow</p> <p>15 morning, will -- at that time does the -- should we be</p> <p>16 advised as any members to hear testimony, and should</p> <p>17 Senators -- should they want to prepare amendments, be</p> <p>18 so advised that the author of Senate Bill 14 would</p> <p>19 prefer that we have our amendments ready tomorrow or the</p> <p>20 next day or -- I'm asking how do we proceed for those</p> <p>21 who would wish to offer amendments?</p> <p>22 CHAIRMAN DUNCAN: Well, Senator, I would</p> <p>23 assume that, you know, the bill will be taken up in the</p> <p>24 committee once the procedures are finished. In other</p> <p>25 words, once we conclude our invited testimony and we</p>	<p>6</p> <p>1 Chamber is back here toward the Rotunda. Upon a</p> <p>2 witness' completion of a registration card and its</p> <p>3 return to the front desk of the Senate Chamber, they may</p> <p>4 remain at the Capital and watch the proceedings from the</p> <p>5 Senate gallery, which is on the third floor. These</p> <p>6 visitors may also depart the premises and return when</p> <p>7 the public testimony is scheduled.</p> <p>8 Now, I will say this: More likely than</p> <p>9 not in the morning before we go into session at 11, we</p> <p>10 will not reach public testimony. I think the first part</p> <p>11 will be the members asking questions of Senator Fraser</p> <p>12 or other co-authors, and then we will begin -- after</p> <p>13 that, we will begin with our invited testimony. I will</p> <p>14 propose that we have a ten-minute limit like we did last</p> <p>15 time on invited testimony with alternating witnesses.</p> <p>16 Once we complete that, we'll move into</p> <p>17 the -- to the public witnesses, and those witnesses will</p> <p>18 be allowed on the Senate floor and have a three-minute</p> <p>19 limit. We'll adopt those tomorrow, and I wanted to make</p> <p>20 sure everyone is comfortable with that before I do it.</p> <p>21 But the bottom line is, that's how we'll proceed.</p> <p>22 I will say this: We will strictly enforce</p> <p>23 the Senate rules on decorum as Senate Rule 3.04 and 3.05</p> <p>24 just like last time. But the bottom line here is at the</p> <p>25 end -- on the second floor in front of the Senate hall,</p>
<p>7</p> <p>1 conclude the public testimony, then the bill will be</p> <p>2 laid out to be considered and amendments will be</p> <p>3 considered at that time. I cannot tell you when that</p> <p>4 will happen. So it will probably be wise to go ahead</p> <p>5 and begin preparing amendments, but we are -- we do not</p> <p>6 have a deadline for filing amendments and will not -- I</p> <p>7 don't intend to adopt a deadline for filing amendments.</p> <p>8 But just be aware that whenever the public testimony is</p> <p>9 concluded and we're done with that part of the process,</p> <p>10 then we will take the bill up for consideration and</p> <p>11 amendments can be offered at that time.</p> <p>12 SEN. VAN de PUTTE: Thank you.</p> <p>13 Mr. Chairman.</p> <p>14 Mr. Chairman, another question. Is it my</p> <p>15 understanding that it is the intent to start tomorrow</p> <p>16 morning at eight o'clock with public testimony being</p> <p>17 able to be -- they can start registering at 7:30 a.m.?</p> <p>18 CHAIRMAN DUNCAN: Very good, Senator.</p> <p>19 Yes, it's our intent to allow the public to begin</p> <p>20 registering in our process to testify tomorrow at 7:30.</p> <p>21 And let me lay that out a little more specific so</p> <p>22 everyone will have notice.</p> <p>23 Tuesday at 7:30 a.m., the registration</p> <p>24 desk for all of those who wish to testify will open in</p> <p>25 front of the Senate Chamber, and the front of the Senate</p>	<p>8</p> <p>1 we'll have registration beginning at 7:30 for public</p> <p>2 witnesses, public testimony.</p> <p>3 SEN. VAN de PUTTE: Thank you.</p> <p>4 Mr. Chairman.</p> <p>5 Mr. Chairman, what time allotments are</p> <p>6 going to be the restrictions for public testimony?</p> <p>7 CHAIRMAN DUNCAN: The public testimony</p> <p>8 will be three minutes. That's consistent with what we</p> <p>9 do in most of our standing committees. You may do that.</p> <p>10 I know in State Affairs we do that as well.</p> <p>11 SEN. VAN de PUTTE: Thank you,</p> <p>12 Mr. Chairman.</p> <p>13 And, Mr. Chairman, just for the record,</p> <p>14 upon receipt of the letter last Friday notifying the</p> <p>15 Senators of your intent to bring Senate Bill 14 to a</p> <p>16 Committee of the Whole today, I informed the Texas</p> <p>17 Democratic Party that is having an event this evening,</p> <p>18 with many of the Senators attending, that we would not</p> <p>19 be attending should we be voicing our constituents'</p> <p>20 concern on the Senate floor. So I want to thank you for</p> <p>21 that recognition that we do have an event, but want to</p> <p>22 make it very clear that our first responsibility, and we</p> <p>23 are prepared to stay if today we are supposed to be</p> <p>24 staying, we will stay today.</p> <p>25 CHAIRMAN DUNCAN: I understand that,</p>

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<p style="text-align: right;">10</p> <p>1 Senator, and we will -- we will begin at eight in the 2 morning, and I look forward to a long productive day as 3 we usually do. I don't know how late we will go. That 4 will depend on a consensus that we develop throughout 5 the day after hearing testimony.</p> <p>6 SEN. VAN DE PUTTE: Mr. Chairman, is it 7 your intent then to continue with public testimony, 8 expert testimony first, questioning of the author in the 9 morning, expert witness testimony, public testimony and 10 then to continue until we finish and then vote out of 11 the Committee of the Whole Senate Bill 14 tomorrow?</p> <p>12 CHAIRMAN DUNCAN: Tomorrow? I can't 13 answer that right now. I don't -- we'll just have to 14 wait and see how many witnesses that we have testify and 15 see what the consensus of this body is at the time that 16 we reach the conclusion or near the conclusion of the 17 testimony.</p> <p>18 SEN. VAN DE PUTTE: Thank you, 19 Mr. Chairman.</p> <p>20 SEN. FRASER: Mr. President?</p> <p>21 CHAIRMAN DUNCAN: Senator Fraser?</p> <p>22 SEN. FRASER: If you would allow me to 23 comment on a question that was asked by Senator Van de 24 Putte, the amendments coming forward at this time where 25 we're not planning on requesting a time certain or</p>	<p style="text-align: right;">12</p> <p>1 people who have an opinion and are experts who will be 2 opposed to the bill, it will be good if we could give 3 you a list with some of those names so they don't have 4 to sign up and wait even -- it might be helpful for 5 Members to decide on some of the amendments that they 6 might be persuaded to vote on if some experts from the 7 opposing side are also given the ability to speak in 8 some predetermined order instead of just getting here at 9 7:30, signing up and waiting to see if they come up in 10 some particular order. Just a question and a suggestion 11 maybe to stimulate a little dialogue and maybe something 12 that will be helpful to all sides. Even if you have a 13 position on the issue, I'm sure there's still something 14 you could learn.</p> <p>15 CHAIRMAN DUNCAN: Senator, we're going to 16 do that. We'll have a list of witnesses and we'll go -- 17 and we'll go efficiently through proponents.</p> <p>18 SEN. ELLIS: Sir, the way you do it in 19 State Affairs. So I'm saying -- yes, so not just for 20 and against, but if we have four and five -- if there 21 are four or five experts on the pro side, we would like 22 to have a comparable number on the opposing side to 23 speak first. You get me?</p> <p>24 CHAIRMAN DUNCAN: Oh, yeah.</p> <p>25 SEN. ELLIS: You know how you normally do</p>
<p style="text-align: right;">11</p> <p>1 amount of time in front on the amendments, but I guess 2 the question I would ask of you is that the number of 3 amendments that potentially might be coming forward, 4 because obviously as you know, when you're considering a 5 bill, if you have amendments that you think possibly 6 might be accepted, the more time we have to look at 7 them, obviously the better.</p> <p>8 So my request would be that any amendments 9 coming forward, if you could give us some time to look 10 at it so we make sure we understand what the amendment 11 does. So if there's -- if there's just a few, I don't 12 think it's as big a problem. If there's numerous 13 amendments, then we would like as much time as possible.</p> <p>14 CHAIRMAN DUNCAN: Senator Ellis?</p> <p>15 SEN. ELLIS: Yes, just a couple of 16 questions, Mr. President. And maybe you or 17 Senator Fraser might be able to answer this. In terms 18 of the process, there will be invited testimony. Right?</p> <p>19 CHAIRMAN DUNCAN: There will be.</p> <p>20 SEN. ELLIS: In State Affairs, the way 21 you, on contentious issues from time to time even when 22 we know in your committee we can guess how most Members 23 are going to vote, you generally have some invited 24 testimony from both sides. So I guess I'm asking a 25 question and making a suggestion so that some of the</p>	<p style="text-align: right;">13</p> <p>1 panels or whatever in State Affairs if it's a 2 contentious issue before we just go to a lot of our 3 constituents who may come up pro and con?</p> <p>4 CHAIRMAN DUNCAN: I will consider that, 5 Senator.</p> <p>6 SEN. ELLIS: Okay. All right. Thank you.</p> <p>7 CHAIRMAN DUNCAN: Senator Uresti?</p> <p>8 SEN. URESTI: Thank you, Mr. Chairman.</p> <p>9 And to kind of follow on what Senator Ellis asked, 10 usually before a hearing, we've given the names of those 11 invited guests or the different agencies, et cetera, and 12 it may be a question to ask of Senator Fraser, but do we 13 have those invited guests yet? Is that known?</p> <p>14 CHAIRMAN DUNCAN: We do. We will -- at 15 least at this point in time as far as resource 16 witnesses. These will not be witnesses that will 17 testify but will be available to answer your questions 18 with regard to technical issues arising from the bill.</p> <p>19 We have David Maxwell, who is Deputy 20 Director of Law Enforcement, Office of Attorney General; 21 Ann McGeehan, Director of Elections, Secretary of State; 22 and Rebecca Davis, Assistant Director for Drivers 23 Licenses with the Texas Department of Public Safety. 24 Those are witnesses that have been requested by both 25 sides to be here as technical resource witnesses, and</p>

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<p>14</p> <p>1 they will be available for us throughout the day.</p> <p>2 Then, of course, you will have our invited</p> <p>3 testimony that will go in as we -- as we normally do,</p> <p>4 one for, one against or one on, whatever. But the</p> <p>5 bottom line is, we'll have an orderly process there as</p> <p>6 well.</p> <p>7 SEN. URESTI: Very well. Mr. Chairman,</p> <p>8 another question that I have. I've been reviewing the</p> <p>9 bill analysis. I don't -- I notice there's no fiscal</p> <p>10 note. Do we know if there's a fiscal note attached to</p> <p>11 this bill?</p> <p>12 CHAIRMAN DUNCAN: There should be a fiscal</p> <p>13 note.</p> <p>14 SEN. URESTI: Okay. I guess we don't have</p> <p>15 it yet. But there is a fiscal note then?</p> <p>16 CHAIRMAN DUNCAN: I'm advised that there</p> <p>17 is a fiscal note --</p> <p>18 SEN. URESTI: Very well. Thank you,</p> <p>19 Mr. Chairman.</p> <p>20 CHAIRMAN DUNCAN: -- that has been</p> <p>21 prepared.</p> <p>22 Senator Gallegos?</p> <p>23 SEN. GALLEGOS: Mr. Chairman, let me ask</p> <p>24 you. On the -- you said for the public it's going to</p> <p>25 be -- the desk will be right outside?</p>	<p>16</p> <p>1 Mr. Chairman, if they don't get a chance -- if they have</p> <p>2 to leave, is there going to be a time limit on letters</p> <p>3 that can be submitted, you know, in lieu of testimony on</p> <p>4 the people that can't get here?</p> <p>5 CHAIRMAN DUNCAN: We can receive testimony</p> <p>6 by -- written testimony. And, you know, as soon as you</p> <p>7 can get it here, the better.</p> <p>8 SEN. GALLEGOS: No, no, no. I understand</p> <p>9 that, but are you going -- are you going to put a time</p> <p>10 limit on written testimony after --</p> <p>11 CHAIRMAN DUNCAN: We will consider -- we</p> <p>12 will consider the time limit on written testimony as we</p> <p>13 complete our work on the bill. I think -- I'm advised</p> <p>14 by the parliamentarian that someone has to be here</p> <p>15 present in order to provide written testimony before the</p> <p>16 committee.</p> <p>17 SEN. GALLEGOS: So you won't take any</p> <p>18 written testimony? Let's say somebody calls me and says</p> <p>19 that they can't get here. You won't take any written</p> <p>20 testimony?</p> <p>21 CHAIRMAN DUNCAN: No. A Senator can enter</p> <p>22 the record later if they wish -- or enter that letter or</p> <p>23 document or statement in the record.</p> <p>24 SEN. GALLEGOS: But is there a time limit?</p> <p>25 Is there a time limit when I can submit it for my</p>
<p>15</p> <p>1 CHAIRMAN DUNCAN: Yes.</p> <p>2 SEN. GALLEGOS: Okay. On the clerks that</p> <p>3 are going to --</p> <p>4 CHAIRMAN DUNCAN: You're pointing toward</p> <p>5 the hall closest to the Rotunda --</p> <p>6 SEN. GALLEGOS: Okay.</p> <p>7 CHAIRMAN DUNCAN: -- not the back hall or</p> <p>8 not the hall here by the Lieutenant Governor's Office,</p> <p>9 but the hall that's out here in the front, which is</p> <p>10 considered the front of the Senate nearest the Rotunda.</p> <p>11 SEN. GALLEGOS: All right. And there will</p> <p>12 be clerks there that will be able to speak Spanish?</p> <p>13 CHAIRMAN DUNCAN: Senator Gallegos, we are</p> <p>14 making arrangements for that.</p> <p>15 SEN. GALLEGOS: Okay. And then,</p> <p>16 Mr. Chairman, the citizens that want to come up and</p> <p>17 testify, and let's say it's going to be a long day</p> <p>18 tomorrow, that at least the clerks can tell them, "Look,</p> <p>19 if you can't stay a certain time, at least you can</p> <p>20 register and check off, you know, I'm for or against the</p> <p>21 bill," that they understand that when they register.</p> <p>22 That way they don't have -- if we know that they are</p> <p>23 not -- if they know they are not going to be here until</p> <p>24 the end until public testimony starts, they can at least</p> <p>25 register and/or -- and this is what I was going to ask.</p>	<p>17</p> <p>1 constituent or any other constituent?</p> <p>2 CHAIRMAN DUNCAN: Well, it's just the</p> <p>3 timing on the bill. I mean, you'd want to get it in</p> <p>4 before the bill is heard.</p> <p>5 (Simultaneous discussion)</p> <p>6 SEN. GALLEGOS: Oh, I understand, but are</p> <p>7 you going to set a time limit?</p> <p>8 CHAIRMAN DUNCAN: Until the bill is voted</p> <p>9 out of the Senate.</p> <p>10 SEN. GALLEGOS: Okay.</p> <p>11 CHAIRMAN DUNCAN: I'm sorry. Out of the</p> <p>12 committee.</p> <p>13 Out of the committee?</p> <p>14 SEN. GALLEGOS: Out of committee or out of</p> <p>15 the Senate?</p> <p>16 CHAIRMAN DUNCAN: Once the bill is</p> <p>17 reported out of committee, we cannot take further</p> <p>18 evidence. But once the bill -- as long as the bill is</p> <p>19 in committee, it can be submitted by a Senator. The</p> <p>20 evidence or written statement can be submitted by a</p> <p>21 Senator into the record. But once we rise and report</p> <p>22 and vote the bill out of the committee, the time -- that</p> <p>23 will be the time -- the time will have passed.</p> <p>24 SEN. GALLEGOS: Okay. So let's say we're</p> <p>25 out of committee. The bill is on the floor. If I have</p>

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1 a stack of letters, will that be -- can I introduce that
2 before the vote?

3 CHAIRMAN DUNCAN: Not into the committee
4 record because the bill will not be in the position of
5 the committee at that time. It would be in another
6 position.

7 SEN. GALLEGOS: Wait a minute; wait a
8 minute; wait a minute. I cannot submit letters as part
9 of the record?

10 CHAIRMAN DUNCAN: Senator --

11 SEN. GALLEGOS: Let's say I speak against
12 it and I want --

13 CHAIRMAN DUNCAN: -- let me be clear.

14 SEN. GALLEGOS: -- I want the following
15 letters submitted as part of the record.

16 CHAIRMAN DUNCAN: Let me be clear. We are
17 resolved into the Committee of the Whole. And while we
18 are considering the bill in the Committee of the Whole,
19 people can come and testify and submit written testimony
20 personally, and it will be received. If they cannot be
21 here and you wish to -- and they wish to send it to your
22 office or any member's office, that member can place it
23 into the committee record as long as the committee is
24 acting on the bill. Once we rise and report back to the
25 Senate and have concluded our work on the bill, you can

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1 no longer submit records or documents or evidence into
2 the committee record. Is that clear?

3 SEN. GALLEGOS: Well, that's clear. But
4 what if I stand up before that vote -- the final vote
5 and register my -- you know, as far as my words against
6 the bill, that I'd like to attach the following as part
7 of the record on my -- as part of the record going
8 against the bill before the final vote?

9 CHAIRMAN DUNCAN: As long as we're still
10 in committee and we haven't taken a final vote in the
11 committee, you can do that.

12 SEN. GALLEGOS: That's not what I'm
13 asking, Senator. I'm asking after committee the bill
14 comes on the floor, I decide to speak against the bill
15 and I want this entered into the record along with my
16 words, along with attached concerns from my
17 constituents.

18 CHAIRMAN DUNCAN: That would be inquiry
19 that you would have to make at the time you attempt to
20 lay it out in front of the full Senate.

21 SEN. GALLEGOS: Okay. Thank you.

22 CHAIRMAN DUNCAN: Being no further
23 questions, the Committee of the Whole will stand at ease
24 until 8:00 a.m. tomorrow morning.

25 (Proceedings recessed at 4:38 p.m.)

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0001

1 TRANSCRIPT OF PROCEEDINGS BEFORE
2 THE SENATE OF THE STATE OF TEXAS
3 EIGHTY-SECOND LEGISLATURE
4 (COMMITTEE OF THE WHOLE SENATE)
5 AUSTIN, TEXAS
6
7

8 IN RE: Â§
 Â§
9 CONSIDERATION OF Â§
 SENATE BILL 14 Â§

10

11

12

13 COMMITTEE OF THE WHOLE SENATE
14 Monday, January 24, 2011
15
16
17

18 BE IT REMEMBERED THAT AT 4:17 p.m., on
19 Monday, the 24th day of January 2011, the above-
20 entitled matter came on for hearing at the Texas State
21 Capitol Senate Chamber, Austin, Texas, before the
22 Committee of the Whole Senate; and the following
23 proceedings were reported by Kim Pence, a Certified
24 Shorthand Reporter:
25 Volume 1 Pages 1 - 19

0002

1 P R O C E E D I N G S
2 MONDAY, JANUARY 24, 2011
3 (4:17 p.m.)
4 PRESIDENT DEWHURST: I'm going to go ahead
5 and move that pursuant to the resolution previously
6 adopted, the Senate resolves itself into the Committee
7 of the Whole for the consideration of Senate Bill 14.
8 I'm going to ask that the Senator from
9 Lubbock, Senator Duncan, please take the Chair for the
10 duration of the proceedings in the Committee of the
11 Whole. I know that Senator Duncan as well as I are
12 sensitive to our Democrat colleagues, and I think
13 there's a function that many of you want to go to. So I
14 don't think this is going to last but a couple of
15 minutes more. Okay.

16 CHAIRMAN DUNCAN: The Committee of the
17 Whole Senate will come to order. The secretary will
18 call the roll.

19 ROLL CALL

20 SECRETARY SPAW: Birdwell?

21 SEN. BIRDWELL: (Present)

22 SECRETARY SPAW: Corona?

23 SEN. CARONA: (Present)

24 SECRETARY SPAW: Davis?

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25 SEN. DAVIS: (Present)

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1 SECRETARY SPAW: Deuell?

2 SEN. DEUELL: (Present)

3 SECRETARY SPAW: Duncan?

4 CHAIRMAN DUNCAN: (Present)

5 SECRETARY SPAW: Ellis?

6 SEN. ELLIS: (Present)

7 SECRETARY SPAW: Eltife?

8 SEN. ELTIFE: (Present)

9 SECRETARY SPAW: Estes?

10 SEN. ESTES: (Present)

11 SECRETARY SPAW: Fraser?

12 SEN. FRASER: (Present)

13 SECRETARY SPAW: Gallegos?

14 SEN. GALLEGOS: (Present)

15 SECRETARY SPAW: Harris?

16 SEN. HARRIS: (Present)

17 SECRETARY SPAW: Hegar?

18 SEN. HEGAR: (Absent)

19 SECRETARY SPAW: Hinojosa?

20 SEN. HINOJOSA: (Present)

21 SECRETARY SPAW: Huffman?

22 SEN. HUFFMAN: (Present)

23 SECRETARY SPAW: Jackson?

24 SEN. JACKSON: (Present)

25 SECRETARY SPAW: Lucio?

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1 SEN. LUCIO: (Present)

2 SECRETARY SPAW: Nelson?

3 SEN. NELSON: (Present)

4 SECRETARY SPAW: Nichols?

5 SEN. NICHOLS: (Present)

6 SECRETARY SPAW: Ogden?

7 SEN. OGDEN: (Present)

8 SECRETARY SPAW: Patrick?

9 SEN. PATRICK: (Present)

10 SECRETARY SPAW: Rodriguez?

11 SEN. RODRIGUEZ: (Present)

12 SECRETARY SPAW: Seliger?

13 SEN. SELIGER: (Present)

14 SECRETARY SPAW: Shapiro?

15 SEN. SHAPIRO: (Present)

16 SECRETARY SPAW: Uresti?

17 SEN. URESTI: (Present)

18 SECRETARY SPAW: Van de Putte?

19 SEN. VAN de PUTTE: (Present)

20 SECRETARY SPAW: Watson?

21 SEN. WATSON: (Present)

22 SECRETARY SPAW: Wentworth?

23 SEN. WENTWORTH: (Present)

24 SECRETARY SPAW: West?

25 SEN. WEST: (Present)

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1 SECRETARY SPAW: Whitmire?

2 SEN. WHITMIRE: (Present)

3 SECRETARY SPAW: Williams?

4 SEN. WILLIAMS: (Present)

5 SECRETARY SPAW: Zaffirini?

6 SEN. ZAFFIRINI: (Present)

7 SECRETARY SPAW: Mr. President?

8 CHAIRMAN DUNCAN: (Present)

9 The quorum is present.

10 LAYING OUT OF SENATE BILL 14

11 CHAIRMAN DUNCAN: The first order of

12 business, the Chair will lay out Senate Bill 14 pursuant

13 to Senate Resolution 79. So the Chair at this time lays

14 out Senate Bill 14.

15 The secretary, I don't think, needs to

16 read the caption, but would you for the record?

17 SECRETARY SPAW: Senate Bill 14 by Fraser,

18 et al., relating to requirements to vote, including

19 presenting proof of identification, providing criminal

20 penalties.

21 CHAIRMAN DUNCAN: Senator Fraser, I have a

22 question of you. Do you have a committee substitute, or

23 are you going to explain tomorrow morning the full bill?

24 SEN. FRASER: There will not be a

25 substitute. The bill that has been passed out and filed

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1 will be the bill before us.

2 QUESTIONS FROM SENATE FLOOR

3 CHAIRMAN DUNCAN: Thank you. Senator Van
4 de Putte, for what purpose?

5 SEN. VAN de PUTTE: An inquiry,

6 Mr. President, of the Committee of the Whole. Don't

7 know whether to refer to you now as Mr. President or

8 Mr. Chairman of the Committee of the Whole --

9 CHAIRMAN DUNCAN: I think it --

10 SEN. VAN de PUTTE: -- and I wanted to ask

11 the parliamentary what is proper?

12 CHAIRMAN DUNCAN: Mr. Chairman.

13 SEN. VAN de PUTTE: Mr. Chairman.

14 Mr. Chairman, the inquiry is as we proceed tomorrow

15 morning, will -- at that time does the -- should we be

16 advised as any members to hear testimony, and should

17 Senators -- should they want to prepare amendments, be

18 so advised that the author of Senate Bill 14 would

19 prefer that we have our amendments ready tomorrow or the

20 next day or -- I'm asking how do we proceed for those

21 who would wish to offer amendments?

22 CHAIRMAN DUNCAN: Well, Senator, I would

23 assume that, you know, the bill will be taken up in the

24 committee once the procedures are finished. In other

25 words, once we conclude our invited testimony and we

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1 conclude the public testimony, then the bill will be

2 laid out to be considered and amendments will be JA_009026

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3 considered at that time. I cannot tell you when that
4 will happen. So it will probably be wise to go ahead
5 and begin preparing amendments, but we are -- we do not
6 have a deadline for filing amendments and will not -- I
7 don't intend to adopt a deadline for filing amendments.
8 But just be aware that whenever the public testimony is
9 concluded and we're done with that part of the process,
10 then we will take the bill up for consideration and
11 amendments can be offered at that time.

12 SEN. VAN de PUTTE: Thank you,
13 Mr. Chairman.

14 Mr. Chairman, another question. Is it my
15 understanding that it is the intent to start tomorrow
16 morning at eight o'clock with public testimony being
17 able to be -- they can start registering at 7:30 a.m.?

18 CHAIRMAN DUNCAN: Very good, Senator.
19 Yes, it's our intent to allow the public to begin
20 registering in our process to testify tomorrow at 7:30.
21 And let me lay that out a little more specific so
22 everyone will have notice.

23 Tuesday at 7:30 a.m., the registration
24 desk for all of those who wish to testify will open in
25 front of the Senate Chamber, and the front of the Senate
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1 Chamber is back here toward the Rotunda. Upon a
2 witness' completion of a registration card and its
3 return to the front desk of the Senate Chamber, they may
4 remain at the Capital and watch the proceedings from the
5 Senate gallery, which is on the third floor. These
6 visitors may also depart the premises and return when
7 the public testimony is scheduled.

8 Now, I will say this: More likely than
9 not in the morning before we go into session at 11, we
10 will not reach public testimony. I think the first part
11 will be the members asking questions of Senator Fraser
12 or other co-authors, and then we will begin -- after
13 that, we will begin with our invited testimony. I will
14 propose that we have a ten-minute limit like we did last
15 time on invited testimony with alternating witnesses.

16 Once we complete that, we'll move into
17 the -- to the public witnesses, and those witnesses will
18 be allowed on the Senate floor and have a three-minute
19 limit. We'll adopt those tomorrow, and I wanted to make
20 sure everyone is comfortable with that before I do it.
21 But the bottom line is, that's how we'll proceed.

22 I will say this: We will strictly enforce
23 the Senate rules on decorum as Senate Rule 3.04 and 3.05
24 just like last time. But the bottom line here is at the
25 end -- on the second floor in front of the Senate hall,
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1 we'll have registration beginning at 7:30 for public
2 witnesses, public testimony.

3 SEN. VAN de PUTTE: Thank you,
4 Mr. Chairman.

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5 Mr. Chairman, what time allotments are
6 going to be the restrictions for public testimony?

7 CHAIRMAN DUNCAN: The public testimony
8 will be three minutes. That's consistent with what we
9 do in most of our standing committees. You may do that.
10 I know in State Affairs we do that as well.

11 SEN. VAN de PUTTE: Thank you,
12 Mr. Chairman.

13 And, Mr. Chairman, just for the record,
14 upon receipt of the letter last Friday notifying the
15 Senators of your intent to bring Senate Bill 14 to a
16 Committee of the Whole today, I informed the Texas
17 Democratic Party that is having an event this evening,
18 with many of the Senators attending, that we would not
19 be attending should we be voicing our constituents'
20 concern on the Senate floor. So I want to thank you for
21 that recognition that we do have an event, but want to
22 make it very clear that our first responsibility, and we
23 are prepared to stay if today we are supposed to be
24 staying, we will stay today.

25 CHAIRMAN DUNCAN: I understand that,
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1 Senator, and we will -- we will begin at eight in the
2 morning, and I look forward to a long productive day as
3 we usually do. I don't know how late we will go. That
4 will depend on a consensus that we develop throughout
5 the day after hearing testimony.

6 SEN. VAN de PUTTE: Mr. Chairman, is it
7 your intent then to continue with public testimony,
8 expert testimony first, questioning of the author in the
9 morning, expert witness testimony, public testimony and
10 then to continue until we finish and then vote out of
11 the Committee of the Whole Senate Bill 14 tomorrow?

12 CHAIRMAN DUNCAN: Tomorrow? I can't
13 answer that right now. I don't -- we'll just have to
14 wait and see how many witnesses that we have testify and
15 see what the consensus of this body is at the time that
16 we reach the conclusion or near the conclusion of the
17 testimony.

18 SEN. VAN de PUTTE: Thank you,
19 Mr. Chairman.

20 SEN. FRASER: Mr. President?

21 CHAIRMAN DUNCAN: Senator Fraser?

22 SEN. FRASER: If you would allow me to
23 comment on a question that was asked by Senator Van de
24 Putte, the amendments coming forward at this time where
25 we're not planning on requesting a time certain or
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1 amount of time in front on the amendments, but I guess
2 the question I would ask of you is that the number of
3 amendments that potentially might be coming forward,
4 because obviously as you know, when you're considering a
5 bill, if you have amendments that you think possibly
6 might be accepted, the more time we have to look at

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7 them, obviously the better.

8 So my request would be that any amendments
9 coming forward, if you could give us some time to look
10 at it so we make sure we understand what the amendment
11 does. So if there's -- if there's just a few, I don't
12 think it's as big a problem. If there's numerous
13 amendments, then we would like as much time as possible.

14 CHAIRMAN DUNCAN: Senator Ellis?

15 SEN. ELLIS: Yes, just a couple of
16 questions, Mr. President. And maybe you or
17 Senator Fraser might be able to answer this. In terms
18 of the process, there will be invited testimony. Right?

19 CHAIRMAN DUNCAN: There will be.

20 SEN. ELLIS: In State Affairs, the way
21 you, on contentious issues from time to time even when
22 we know in your committee we can guess how most Members
23 are going to vote, you generally have some invited
24 testimony from both sides. So I guess I'm asking a
25 question and making a suggestion so that some of the
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1 people who have an opinion and are experts who will be
2 opposed to the bill, it will be good if we could give
3 you a list with some of those names so they don't have
4 to sign up and wait even -- it might be helpful for
5 Members to decide on some of the amendments that they
6 might be persuaded to vote on if some experts from the
7 opposing side are also given the ability to speak in
8 some predetermined order instead of just getting here at
9 7:30, signing up and waiting to see if they come up in
10 some particular order. Just a question and a suggestion
11 maybe to stimulate a little dialogue and maybe something
12 that will be helpful to all sides. Even if you have a
13 position on the issue, I'm sure there's still something
14 you could learn.

15 CHAIRMAN DUNCAN: Senator, we're going to
16 do that. We'll have a list of witnesses and we'll go --
17 and we'll go efficiently through proponents.

18 SEN. ELLIS: Sir, the way you do it in
19 State Affairs. So I'm saying -- yes, so not just for
20 and against, but if we have four and five -- if there
21 are four or five experts on the pro side, we would like
22 to have a comparable number on the opposing side to
23 speak first. You get me?

24 CHAIRMAN DUNCAN: Oh, yeah.

25 SEN. ELLIS: You know how you normally do
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1 panels or whatever in State Affairs if it's a
2 contentious issue before we just go to a lot of our
3 constituents who may come up pro and con?

4 CHAIRMAN DUNCAN: I will consider that,
5 Senator.

6 SEN. ELLIS: Okay. All right. Thank you.

7 CHAIRMAN DUNCAN: Senator Uresti?

8 SEN. URESTI: Thank you, Mr. Chairman. JA_009029

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9 And to kind of follow on what Senator Ellis asked,
10 usually before a hearing, we're given the names of those
11 invited guests or the different agencies, et cetera, and
12 it may be a question to ask of Senator Fraser, but do we
13 have those invited guests yet? Is that known?

14 CHAIRMAN DUNCAN: We do. We will -- at
15 least at this point in time as far as resource
16 witnesses. These will not be witnesses that will
17 testify but will be available to answer your questions
18 with regard to technical issues arising from the bill.

19 We have David Maxwell, who is Deputy
20 Director of Law Enforcement, Office of Attorney General;
21 Ann McGeehan, Director of Elections, Secretary of State;
22 and Rebecca Davio, Assistant Director for Drivers
23 Licenses with the Texas Department of Public Safety.
24 Those are witnesses that have been requested by both
25 sides to be here as technical resource witnesses, and
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1 they will be available for us throughout the day.

2 Then, of course, you will have our invited
3 testimony that will go in as we -- as we normally do,
4 one for, one against or one on, whatever. But the
5 bottom line is, we'll have an orderly process there as
6 well.

7 SEN. URESTI: Very well. Mr. Chairman,
8 another question that I have. I've been reviewing the
9 bill analysis. I don't -- I notice there's no fiscal
10 note. Do we know if there's a fiscal note attached to
11 this bill?

12 CHAIRMAN DUNCAN: There should be a fiscal
13 note.

14 SEN. URESTI: Okay. I guess we don't have
15 it yet. But there is a fiscal note then?

16 CHAIRMAN DUNCAN: I'm advised that there
17 is a fiscal note --

18 SEN. URESTI: Very well. Thank you,
19 Mr. Chairman.

20 CHAIRMAN DUNCAN: -- that has been
21 prepared.

22 Senator Gallegos?

23 SEN. GALLEGOS: Mr. Chairman, let me ask
24 you. On the -- you said for the public it's going to
25 be -- the desk will be right outside?
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1 CHAIRMAN DUNCAN: Yes.

2 SEN. GALLEGOS: Okay. On the clerks that
3 are going to --

4 CHAIRMAN DUNCAN: You're pointing toward
5 the hall closest to the Rotunda --

6 SEN. GALLEGOS: Okay.

7 CHAIRMAN DUNCAN: -- not the back hall or
8 not the hall here by the Lieutenant Governor's Office,
9 but the hall that's out here in the front, which is
10 considered the front of the Senate nearest the Rotunda.

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11 SEN. GALLEGOS: All right. And there will
12 be clerks there that will be able to speak Spanish?

13 CHAIRMAN DUNCAN: Senator Gallegos, we are
14 making arrangements for that.

15 SEN. GALLEGOS: Okay. And then,
16 Mr. Chairman, the citizens that want to come up and
17 testify, and let's say it's going to be a long day
18 tomorrow, that at least the clerks can tell them, "Look.
19 If you can't stay a certain time, at least you can
20 register and check off, you know, I'm for or against the
21 bill," that they understand that when they register.
22 That way they don't have -- if we know that they are
23 not -- if they know they are not going to be here until
24 the end until public testimony starts, they can at least
25 register and/or -- and this is what I was going to ask,
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1 Mr. Chairman, if they don't get a chance -- if they have
2 to leave, is there going to be a time limit on letters
3 that can be submitted, you know, in lieu of testimony on
4 the people that can't get here?

5 CHAIRMAN DUNCAN: We can receive testimony
6 by -- written testimony. And, you know, as soon as you
7 can get it here, the better.

8 SEN. GALLEGOS: No, no, no. I understand
9 that, but are you going -- are you going to put a time
10 limit on written testimony after --

11 CHAIRMAN DUNCAN: We will consider -- we
12 will consider the time limit on written testimony as we
13 complete our work on the bill. I think -- I'm advised
14 by the parliamentarian that someone has to be here
15 present in order to provide written testimony before the
16 committee.

17 SEN. GALLEGOS: So you won't take any
18 written testimony? Let's say somebody calls me and says
19 that they can't get here. You won't take any written
20 testimony?

21 CHAIRMAN DUNCAN: No. A Senator can enter
22 the record later if they wish -- or enter that letter or
23 document or statement in the record.

24 SEN. GALLEGOS: But is there a time limit?
25 Is there a time limit when I can submit it for my
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1 constituent or any other constituent?

2 CHAIRMAN DUNCAN: Well, it's just the
3 timing on the bill. I mean, you'd want to get it in
4 before the bill is heard.

5 (Simultaneous discussion)

6 SEN. GALLEGOS: Oh, I understand, but are
7 you going to set a time limit?

8 CHAIRMAN DUNCAN: Until the bill is voted
9 out of the Senate.

10 SEN. GALLEGOS: Okay.

11 CHAIRMAN DUNCAN: I'm sorry. Out of the
12 committee.

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13 Out of the committee?

14 SEN. GALLEGOS: Out of committee or out of
15 the Senate?

16 CHAIRMAN DUNCAN: Once the bill is
17 reported out of committee, we cannot take further
18 evidence. But once the bill -- as long as the bill is
19 in committee, it can be submitted by a Senator. The
20 evidence or written statement can be submitted by a
21 Senator into the record. But once we rise and report
22 and vote the bill out of the committee, the time -- that
23 will be the time -- the time will have passed.

24 SEN. GALLEGOS: Okay. So let's say we're
25 out of committee. The bill is on the floor. If I have
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1 a stack of letters, will that be -- can I introduce that
2 before the vote?

3 CHAIRMAN DUNCAN: Not into the committee
4 record because the bill will not be in the position of
5 the committee at that time. It would be in another
6 position.

7 SEN. GALLEGOS: Wait a minute, wait a
8 minute; wait a minute. I cannot submit letters as part
9 of the record?

10 CHAIRMAN DUNCAN: Senator --

11 SEN. GALLEGOS: Let's say I speak against
12 it and I want --

13 CHAIRMAN DUNCAN: -- let me be clear.

14 SEN. GALLEGOS: -- I want the following
15 letters submitted as part of the record.

16 CHAIRMAN DUNCAN: Let me be clear. We are
17 resolved into the Committee of the Whole. And while we
18 are considering the bill in the Committee of the Whole,
19 people can come and testify and submit written testimony
20 personally, and it will be received. If they cannot be
21 here and you wish to -- and they wish to send it to your
22 office or any member's office, that member can place it
23 into the committee record as long as the committee is
24 acting on the bill. Once we rise and report back to the
25 Senate and have concluded our work on the bill, you can
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1 no longer submit records or documents or evidence into
2 the committee record. Is that clear?

3 SEN. GALLEGOS: Well, that's clear. But
4 what if I stand up before that vote -- the final vote
5 and register my -- you know, as far as my words against
6 the bill, that I'd like to attach the following as part
7 of the record on my -- as part of the record going
8 against the bill before the final vote?

9 CHAIRMAN DUNCAN: As long as we're still
10 in committee and we haven't taken a final vote in the
11 committee, you can do that.

12 SEN. GALLEGOS: That's not what I'm
13 asking, Senator. I'm asking after committee the bill
14 comes on the floor, I decide to speak against the bill_009032

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15 and I want this entered into the record along with my
16 words, along with attached concerns from my
17 constituents.

18 CHAIRMAN DUNCAN: That would be inquiry
19 that you would have to make at the time you attempt to
20 lay it out in front of the full Senate.

21 SEN. GALLEGOS: Okay. Thank you.

22 CHAIRMAN DUNCAN: Being no further
23 questions, the Committee of the Whole will stand at ease
24 until 8:00 a.m. tomorrow morning.

25 (Proceedings recessed at 4:38 p.m.)

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SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SECOND DAY

(Wednesday, January 14, 2009)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

Rabbi Alan Freedman, Temple Beth Shalom, Austin, offered the invocation as follows:

Almighty God, prosper the work of our hands. Although this session has just begun, we recognize the immense importance and complexity of the work that lies before this body in the few short weeks that lie ahead. There is so much work to be done for the people of Texas and so little time to accomplish it. Therefore, help us to take into our hearts the prayer contained in Psalm 90 in which we ask You, Holy One, to teach us to number our days that we might obtain a heart of wisdom. May the Members of this body, indeed, be inspired by You to govern with wise hearts and thereby make each day count in the service of the people of this great state. For when we do so, our work in this Chamber shall surely be worthy of Your blessing. Thus, will the final words of Psalm 90 be fulfilled: May the favor of the Lord, our God, be upon us; let the work of our hands prosper, O prosper the work of our hands. And let us say: Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

January 14, 2009

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 17, Congratulating His Eminence, Daniel Cardinal DiNardo, Archbishop of Galveston-Houston.

HCR 19, Inviting the governor to address a joint session of the legislature on January 27, 2009.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Hegar was recognized and presented Dr. Henry Boehm of Brenham as the Physician of the Day.

The Senate welcomed Dr. Boehm and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

SENATE RESOLUTION 8

Senator Seliger offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join citizens across the state in celebrating January 14, 2009, as Andrews Day at the State Capitol; and

WHEREAS, Located at the heart of the Permian Basin, Andrews is the county seat of Andrews County, a vast region of rolling prairie typical of the southern High Plains; the county ranks second in oil production among counties in the Permian Basin, a region that holds 25 percent of the nation's oil and gas reserves; and

WHEREAS, The City of Andrews offers a healthy entrepreneurial environment and diversified economy that promote the progressive growth of the city and the surrounding area; city leaders have proven to be forward-thinking and innovative in supporting the infrastructure to sustain the city's "Move Ahead" attitude; and

WHEREAS, The City of Andrews offers citizens and visitors alike a wide range of recreational opportunities, including a challenging 18-hole golf course and a number of outstanding parks and athletic facilities; with two annual bluegrass festivals and such attractions as the Andrews County Junior Livestock Show and the annual arts and crafts shows, Andrews has created an environment where the arts and culture thrive; and

WHEREAS, With its can-do attitude and hardworking population, the City of Andrews stands poised to move into a bright future; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the citizens of Andrews for their many contributions to our state and extend to them best wishes for a memorable Andrews Day at the State Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the citizens of Andrews as an expression of esteem from the Texas Senate.

SR 8 was read and was adopted without objection.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate a delegation of citizens from the City of Andrews.

The Senate welcomed its guests.

RECESS

On motion of Senator Whitmire, the Senate at 11:07 a.m. recessed until 12:00 noon today.

AFTER RECESS

The Senate met at 12:33 p.m. and was called to order by the President.

SENATE RESOLUTION 14

Senator Williams offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That the Rules of the Senate of the 80th Legislature are adopted as the Permanent Rules of the Senate of the 81st Legislature with the following modifications:

1. Amend Rule 5.11 to read as follows:

SPECIAL ORDERS

Rule 5.11. (a) Any bill, resolution, or other measure may on any day be made a special order for a future time of the session by an affirmative vote of two-thirds of the members present.

(b) A special order shall be considered at the time for which it is set and considered from day to day until disposed of, unless at the time so fixed there is pending business under a special order, but such pending business may be suspended by a two-thirds vote of all the members present. If a special order is not reached or considered at the time fixed, it shall not lose its place as a special order. All special orders shall be subject to any Joint Rules and Rule 5.10.

(c) Upon the affirmative vote of four-fifths of the members present, a special order may be reset to an earlier time than previously scheduled.

(d) Notwithstanding subsection (a), a bill or resolution relating to voter identification requirements reported favorably from the Committee of the Whole Senate may be set as a special order for a time at least 24 hours after the motion is adopted by a majority of the members of the Senate.

2. Amend Rule 6.15 to read as follows:

WHEN RECORD VOTE REQUIRED; CALLS FOR YEAS AND NAYS

[REQUIRED]

Rule 6.15. (a)(1) A vote on ~~Upon the~~ final passage of a bill, a resolution proposing or ratifying a constitutional amendment, or a resolution other than a resolution of a purely ceremonial or honorary nature shall be by record vote, with the vote of each member entered in the journal.

(2) A vote on ~~[all amendments proposed to the Constitution, all bills appropriating money or lands for any purpose, all bills containing an immediate effect clause,]~~ all motions to suspend the constitutional three-day rule, ~~[and]~~ all questions requiring a vote of two-thirds of the members elected, all motions on whether to concur in House amendments to Senate bills, and all motions on whether to adopt a conference committee report shall be by record vote, with the vote of each member ~~[the presiding officer shall call for the yeas and nays, and they shall be]~~ entered in the journal.

(3) Upon all other questions requiring a vote of two-thirds of the members present, including a motion to suspend the rules, the presiding officer shall determine if there is objection and, if so, call for the yeas and nays, but they shall not be entered into the journal unless required under Subsection (b) of this rule. If no objection is made, the journal entry shall reflect a unanimous consent vote of the members present without necessity of a roll call of yeas and nays.

(b) On any other question, at ~~[A]~~ the desire of any three members present, the yeas and nays shall be entered on the journal, and the names of the members present and not voting shall be recorded immediately after those voting in the affirmative and negative, and such members shall be counted in determining the presence of a quorum. (Constitution, Article III, Section 12)

(c)(1) Any nonprocedural motion adopted by voice vote, without objection, or with unanimous consent shall be reflected in the journal by showing members present as "yea", unless a member registers otherwise with the Secretary of the Senate.

(2) The following statement shall be entered in the journal after each vote taken as provided in Subdivision (1) of this subsection:

"All members are deemed to have voted 'Yea' except as follows:

Nays:

PNV:

Absent-Excused:

Absent:"

(d) A member must be on the floor of the Senate or in an adjacent room or hallway on the same level as the Senate floor or gallery in order to vote; but a member who is out of the Senate when a record vote is taken and who wishes to be recorded shall be permitted to do so provided:

(1) the member was out of the Senate temporarily, having been recorded earlier as present;

(2) the vote is submitted to the Secretary of the Senate prior to adjournment or recess to another calendar day; and

(3) the recording of the member's vote does not change the result as announced by the chair.

(e) Once begun, a roll call may not be interrupted for any reason.

3. Amend Rule 16.07 as follows:

MATTERS REQUIRING VOTE OF MAJORITY
OF MEMBERS OF SENATE

Rule 16.07. A vote of the majority of the members of the Senate is required to:

(1) pass a resolution initially adopting temporary or permanent rules of the Senate; Rule 21.01

- (2) adopt, amend, or rescind any Joint Rules of the two Houses; Rules 21.02 and 22.02
(3) adopt resolution to suspend conference committee rules; Rule 12.08
(4) commit or recommit bill, resolution, or petition to a committee; Rule 6.08
(5) hold an executive session; Rule 15.02
(6) pass a resolution amending the Rules of the Senate.
(7) set voter identification requirement bills for special order; Rule 5.11(d)

SR 14 was read.

POINT OF ORDER

Senator Shapleigh raised a point of order against further consideration of **SR 14** in that the resolution should be referred to committee.

POINT OF ORDER RULING

The President stated that the point of order was respectfully overruled.

PERSONAL PRIVILEGE STATEMENT

Senator Van de Putte was recognized to speak on a matter of personal privilege.

(Senator Duncan in Chair)

(President in Chair)

Senator Ellis offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **SR 14** as follows:

(1) On page 2, line 1, strike "voter identification requirements", and add the following: "protecting families through insurance rate regulation and foreclosure prevention"

(2) On page 5, line 1, strike "voter identification requirements", and add the following: "protecting families through insurance rate regulation and foreclosure prevention"

The amendment to **SR 14** was read.

On motion of Senator Williams, Floor Amendment No. 1 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Senator Uresti offered the following amendment to the resolution:

Floor Amendment No. 2

Amend **SR 14** as follows:

(1) On page 2, amend modification 1, after "voter identification requirements", by inserting the following: "or increasing veterans' benefits"

(2) On page 2, amend modification 2, after "voter identification requirements", by inserting the following: "or increasing veterans' benefits"

The amendment to **SR 14** was read.

On motion of Senator Williams, Floor Amendment No. 2 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Senator Lucio offered the following amendment to the resolution:

Floor Amendment No. 3

Amend **SR 14** as follows:

(1) On page 2, line 1, strike "voter identification requirements", and add the following: "job creation and assistance to those seeking employment"

(2) On page 5, line 1, strike "voter identification requirements", and add the following: "job creation and assistance to those seeking employment"

The amendment to **SR 14** was read.

On motion of Senator Williams, Floor Amendment No. 3 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Senator Watson offered the following amendment to the resolution:

Floor Amendment No. 4

Amend **SR 14** as follows:

(1) On page 2, line 1 strike "voter identification requirements" and insert the following: "full funding of Children's Health Insurance Program"

(2) On page 5, line 1 strike "voter identification requirements" and insert the following: "full funding of Children's Health Insurance Program"

The amendment to **SR 14** was read.

On motion of Senator Williams, Floor Amendment No. 4 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Senator Van de Putte offered the following amendment to the resolution:

Floor Amendment No. 5

Amend **SR 14** as follows:

(1) On page 2, line 1, strike "voter identification requirements", and add the following: "increasing public school investments and resulting property tax relief"

(2) On page 5, line 1, strike "voter identification requirements", and add the following: "increasing public school investments and resulting property tax relief"

The amendment to **SR 14** was read.

On motion of Senator Williams, Floor Amendment No. 5 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Senator West offered the following amendment to the resolution:

Floor Amendment No. 6

Amend **SR 14** as follows:

(1) On pages 1 and 2, amend modification 1, by striking proposed subsection (d) and substituting the following appropriately lettered subsection:

"() Notwithstanding subsection (a), a bill or resolution relating to repealing tuition deregulation and requiring legislative approval of tuition rates at institutions of higher education reported favorably from the committee of the senate may be set as a special order for a time at least 24 hours after the motion is adopted by a majority of the members of the Senate."

(2) On page 5, amend modification 3, by striking proposed subsection (7) and substituting an appropriately numbered subsection, to read as follows:

"() set bills relating to requiring legislative approval of tuition rates at institutions of higher education for special order; Rule 5.11(d)".

The amendment to **SR 14** was read.

On motion of Senator Williams, Floor Amendment No. 6 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

POINT OF ORDER

Senator Shapleigh raised a point of order against further consideration of **SR 14**.

The President requested that Senator Shapleigh submit his point of order in writing.

RECESS

On motion of Senator Whitmire, the Senate at 3:49 p.m. recessed until 4:10 p.m. today.

AFTER RECESS

The Senate met at 4:45 p.m. and was called to order by the President.

RECESS

On motion of Senator Whitmire, the Senate at 4:50 p.m. recessed until 5:05 p.m. today.

AFTER RECESS

The Senate met at 5:30 p.m. and was called to order by the President.

POINT OF ORDER

Senator Shapleigh submitted to the President the following point of order:

I raise a Point of Order regarding Article 4, Section 16(b) of the Texas Constitution, which grants authority to the Lieutenant Governor.

Since no Senate rules have been adopted to govern the 81st Legislative Session, the Lieutenant Governor's powers are limited to those granted by the Texas Constitution, specifically Article 4, Section 16.

By recognizing Senator Williams on Senate Resolution 14, by ruling on points of order, and other substantive matters, the Lieutenant Governor has made substantive rulings from the chair and has thus exceeded the powers granted to him by the Texas Constitution.

Senate Resolution 14 has thus been considered under a procedure not recognized by the Texas Constitution, and thus the proceedings and Senate Resolution 14, as a fruit of the proceedings are void.

SHAPLEIGH

POINT OF ORDER RULING

The President stated that the point of order was respectfully overruled.

On motion of Senator Williams, **SR 14** was adopted by the following vote: Yeas 18, Nays 13.

Yeas: Averitt, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Carona, Davis, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

REMARKS ORDERED PRINTED

On motion of Senator Williams and by unanimous consent, the closing remarks regarding **SR 14** were ordered reduced to writing and printed in the *Senate Journal*.

On motion of Senator West and by unanimous consent, all of the debate and remarks regarding **SR 14** were ordered reduced to writing and printed in the *Senate Journal*.

The remarks will be printed in an addendum to this day's journal.

HOUSE CONCURRENT RESOLUTION 19

The President laid before the Senate the following resolution:

HCR 19, Inviting the governor to address a joint session of the legislature on January 27, 2009.

DUNCAN

HCR 19 was read.

On motion of Senator Duncan and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

SENATE CONCURRENT RESOLUTION 3

The President laid before the Senate the following resolution:

WHEREAS, Section 17, Article III, Texas Constitution, provides that neither house of the legislature may adjourn for more than three days without the consent of the other house; now, therefore, be it

RESOLVED by the 81st Legislature of the State of Texas, That each house grant the other permission to adjourn for more than three days during the period beginning on Wednesday, January 14, 2009, and ending on Monday, January 26, 2009.

WHITMIRE

SCR 3 was read.

On motion of Senator Whitmire and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SCR 2 by Seliger, Commemorating the centennial of West Texas A&M University.

SR 7 by Ogden, Recognizing Walter R. Pond on the occasion of his retirement from the Rockdale Independent School District.

SR 9 by Nelson, Recognizing Cheryl Baker on the occasion of her retirement from the Department of Homeland Security.

SR 10 by West, Recognizing the City of Dallas on the occasion of its 27th annual Martin Luther King, Jr., Birthday Celebration.

SR 11 by Van de Putte, Recognizing Michael Wayne Thomas for his contributions to the San Antonio community.

SR 12 by Van de Putte, Recognizing Judith A. House on the occasion of her retirement from the Office of the Comptroller of Public Accounts.

SR 13 by Ogden, Congratulating members of the TALL XI class for their selection as participants.

SR 15 by West, Recognizing musician John Legend for his accomplishments in the entertainment field.

SR 16 by Zaffirini, Recognizing members of the Washington's Birthday Celebration Association of Laredo on the occasion of its 112th celebration.

HCR 17 (Lucio), Congratulating His Eminence, Daniel Cardinal DiNardo, Archbishop of Galveston-Houston.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 6:59 p.m. adjourned until 1:30 p.m. Monday, January 26, 2009.